

Susan D. Pitchford, OSB No. 980911

E-mail: sdp@chernofflaw.com

Kevin L. Russell, OSB 934855

E-mail: kevin@chernofflaw.com

CHERNOFF VILHAUER LLP

601 SW Second Avenue, Suite 1600

Portland, Oregon 97204

Telephone: (503) 227-5631

Attorneys for Plaintiff Real Right Stuff, LLC

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON**

REAL RIGHT STUFF, LLC,	§ Case No. 3:15-cv-2221
	§
Plaintiff,	§ COMPLAINT FOR PATENT
	§ INFRINGEMENT
v.	§
AMAZON.COM, INC.; B&H FOTO &	§
ELECTRONICS CORP.; DESMOND	§
PHOTOGRAPHIC DISTRIBUTORS, INC.	§
d/b/a OEC CAMERA ACCESSORIES and	§ JURY TRIAL DEMANDED
JOHN SIMMONDS,	§
Defendants.	§

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Real Right Stuff, LLC, (“Real Right Stuff” or “Plaintiff”) brings this action against defendants Amazon.com, Inc. (“Amazon”), B&H Foto & Electronics Corp. (“B&H”), Desmond Photographic Distributors, Inc. d/b/a OEC Camera Accessories (“Desmond Photographic”) and John Simmonds (“Simmonds”) (collectively “Defendants”) and, on information and belief, alleges as follows:

THE PARTIES

1. Plaintiff Real Right Stuff is a limited liability company organized and existing under the laws of California, with its principal place of business 1146 Farmhouse Lane, San Luis Obispo, California 93401.

2. Plaintiff Real Right Stuff owns, through assignment, the inventions described and claimed in United States Patent Nos. 6,773,172 entitled “QUICK-RELEASE CLAMP FOR PHOTOGRAPHIC EQUIPMENT” (the “‘172 Patent”), 8,398,037 entitled “EQUIPMENT SUPPORT” (the “‘037 Patent”), and 9,063,397 entitled “PANORAMIC CAMERA MOUNT” (the “‘397 Patent) (Collectively “Patents at Issue”).

3. Upon information and belief, Defendant Amazon is a corporation organized and existing under the laws of Delaware, with its principal place of business located at 410 Terry Avenue North, Seattle, WA 98109-5210.

4. Upon information and belief, Defendant B&H is a corporation organized and existing under the laws of New York, with its principal place of business located at 420 9th Avenue, New York, NY 10001.

5. Upon information and belief, Desmond Photographic is a corporation organized and existing under the laws of Oregon, with its principal place of business located at 14147 SE Alta Vista Drive, Happy Valley, OR 97086.

6. Upon information and belief, defendant Simmonds is an individual and resident of Happy Valley, Oregon.

7. Upon information and belief, Defendant Simmonds and/or Defendant Desmond Photographic distribute the products referenced below to Defendant B&H and Defendant Amazon and also distribute such products directly.

JURISDICTION AND VENUE

8. This is an action for patent infringement arising under the provisions of the Patent Laws of the United States of America, Title 35, United States Code.

9. Subject-matter jurisdiction over Plaintiff's claims is conferred upon this Court by 28 U.S.C. §§ 1331 and 1338(a).

10. On Information and belief, each defendant has solicited business in the State of Oregon, transacted business within the State of Oregon and attempted to derive financial benefit from residents of the State of Oregon, including benefits directly related to the instant patent infringement cause of action set forth herein.

11. Venue is proper in this judicial district under 28 U.S.C. §§ 1391(b), (c), and (d) and 1400(b).

THE PATENTS

12. The United States Patent and Trademark Office issued the '172 Patent (attached as exhibit A) on August 10, 2004. Through assignment, Plaintiff is the owner of all right, title, and interest in the Patent, including all rights to pursue and collect damages for past infringement of the Patent.

13. The United States Patent and Trademark Office issued the '037 Patent (attached as exhibit B) on March 19, 2013. Through assignment, Plaintiff is the owner of all right, title, and interest in the Patent, including all rights to pursue and collect damages for past infringement of the Patent.

14. The United States Patent and Trademark Office issued the '397 Patent (attached as exhibit C) on June 23, 2015. Through assignment, Plaintiff is the owner of all right, title, and

interest in the Patent, including all rights to pursue and collect damages for past infringement of the Patent.

**CLAIM FOR PATENT INFRINGEMENT
(Infringement of the ‘172 patent)**

15. Plaintiff incorporates by reference each of the allegations in paragraphs 1 – 14 above and further alleges as follows:

16. The United States Patent and Trademark Office issued the ‘172 patent on August 10, 2004. Through assignment, Plaintiff is the owner of the ‘172 Patent with full rights to pursue recovery of royalties or damages for infringement of said patent, including full rights to recover past and future damages.

17. The ‘172 Patent is presumed valid.

18. Upon information and belief, the defendants, directly or through intermediaries, infringed one or more claims of the ‘172 patent, by or through making, having made, using, importing, providing, supplying, distributing, selling, and/or offering for sale quick-release clamps for photographic equipment, including but not limited to such clamps identified as SUNWAYFOTO DLC-42, SUNWAYFOTO DLC-50, SUNWAYFOTO DLC-60, SUNWAYFOTO DLC-60L, and/or SUNWAYFOTO DLC-60XL, and are not a staple article or commodity of commerce suitable for substantial non-infringing use, and are especially made or especially adapted for use in an infringement.

19. Defendants are each liable for infringement of the ‘172 patent pursuant to 35 U.S.C. § 271.

20. Defendants were previously notified of and/or had knowledge of the ‘172 patent. Despite such notification and/or knowledge, those defendants have continued their infringement

of the ‘172 patent. On information and belief those defendants’ infringement of the ‘172 patent have therefore been with notice and knowledge of the patent and has been willful and deliberate.

21. Plaintiff has been damaged by Defendants’ infringements of the ‘172 patent and will suffer additional irreparable damage and impairment of the value of its patent rights unless Defendants are enjoined from continuing to infringe the ‘172 patent.

22. Plaintiff is entitled to recover damages from the Defendants to compensate for the infringement.

CLAIM FOR PATENT INFRINGEMENT
(Infringement of the ‘037 patent)

23. Plaintiff incorporates by reference each of the allegations in paragraphs 1 – 22 above and further alleges as follows:

24. The United States Patent and Trademark Office issued the ‘037 patent on March 19, 2013. Through assignment, Plaintiff is the owner of the ‘037 Patent with full rights to pursue recovery of royalties or damages for infringement of said patent, including full rights to recover past and future damages.

25. The ‘037 Patent is presumed valid.

26. Upon information and belief, the defendants, directly or through intermediaries, infringed one or more claims of the ‘037 patent, by or through making, having made, using, importing, providing, supplying, distributing, selling, and/or offering for sale tripods such as those identified as SIRUI R-4213X, SIRUI R-4214X, SIRUI R-5214X, and/or SIRUI R-5214X, and are not a staple article or commodity of commerce suitable for substantial non-infringing use, and are especially made or especially adapted for use in an infringement.

27. Defendants are each liable for infringement of the ‘037 patent pursuant to 35 U.S.C. § 271.

28. Defendants Amazon and B&H were previously notified of and/or had knowledge of the ‘037 patent. Despite such notification and/or knowledge, those defendants have continued their infringement of the ‘037 patent. On information and belief those defendants’ infringement of the ‘037 patent have therefore been with notice and knowledge of the patent and has been willful and deliberate.

29. Despond Photographic and Simmonds has had knowledge of the ‘037 patent at least from the time of the complaint and have continued their infringement of the ‘037 patent.

30. Plaintiff has been damaged by Defendants’ infringements of the ‘037 patent and will suffer additional irreparable damage and impairment of the value of its patent rights unless Defendants are enjoined from continuing to infringe the ‘037 patent.

31. Plaintiff is entitled to recover damages from the Defendants to compensate for the infringement.

**CLAIM FOR PATENT INFRINGEMENT
(Infringement of the ‘397 patent)**

32. Plaintiff incorporates by reference each of the allegations in paragraphs 1 – 31 above and further alleges as follows:

33. The United States Patent and Trademark Office issued the ‘397 patent on June 23, 2015. Through assignment, Plaintiff is the owner of the ‘397 Patent with full rights to pursue recovery of royalties or damages for infringement of said patent, including full rights to recover past and future damages.

34. The ‘397 Patent is presumed valid.

35. Upon information and belief, the defendants, directly or through intermediaries, infringed one or more claims of the ‘397 patent, by or through making, having made, using, importing, providing, supplying, distributing, selling, and/or offering for sale camera mounts including those identified as SUNWAYFOTO DDH-02, SUNWAYFOTO DDH-02i, SUNWAYFOTO DDH-03i , SUNWAYFOTO DDH-03Ni , SUNWAYFOTO DDH-04, SUNWAYFOTO DDH-04N, SUNWAYFOTO DDH-05, SUNWAYFOTO DDH-05N, SUNWAYFOTO DDH-06, SUNWAYFOTO IRC-64, and/or Desmond Panning Claim PC-2, and are not a staple article or commodity of commerce suitable for substantial non-infringing use, and are especially made or especially adapted for use in an infringement.

36. Defendants are each liable for infringement of the ‘397 patent pursuant to 35 U.S.C. § 271.

37. Defendants were previously notified of and/or had knowledge of the ‘397 patent. Despite such notification and/or knowledge, those defendants have continued their infringement of the ‘397 patent. On information and belief those defendants’ infringement of the ‘397 patent have therefore been with notice and knowledge of the patent and has been willful and deliberate.

38. Plaintiff has been damaged by Defendants’ infringements of the ‘397 patent and will suffer additional irreparable damage and impairment of the value of its patent rights unless Defendants are enjoined from continuing to infringe the ‘397 patent.

39. Plaintiff is entitled to recover damages from the Defendants to compensate for the infringement.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment as follows:

- A.** Each defendant has infringed, contributed to infringement of, and/or induced infringement of the Patents at Issue;
- B.** One or more defendants' infringement, contributory infringement, and/or induced infringement of the Patents at Issue have been willful and deliberate;
- C.** Each defendant account for and pay to Plaintiff all damages caused by its infringement of the Patents at Issue in accordance with 35 U.S.C. §284;
- D.** The Court increase the amount of damages as a result of one or more of the defendants' infringement, contributory infringement, and/or induced infringement of the Patents at issue to three times the amount found or assessed by the Court because of the willful and deliberate nature of the infringement, all in accordance with 35 U.S.C. §284;
- E.** Plaintiff be granted permanent injunctive relief pursuant to 35 U.S.C. § 283 enjoining each defendant, its officers, agents, servants, employees and those person in active concert or participation with them from further acts of patent infringement;
- F.** Plaintiff be granted pre-judgment and post-judgment interest on the damages cause to them by reason of each defendants' patent infringement complaint of herein;
- G.** The Court declare this an exceptional case and the Plaintiff be granted its reasonable attorneys' fees in accordance with 35 U.S.C. §285;
- H.** Costs be awarded to plaintiff;
- I.** For such other relief as justice requires.

DEMAND FOR JURY TRIAL

Plaintiff demands trial by jury on all claims and issues so triable.

Respectfully submitted,

Dated: November 25, 2015

By: /s/ Susan D. Pitchford
Susan D. Pitchford, OSB 98091
Kevin L. Russell, OSB 934855
CHERNOFF VILHAUER LLP
601 SW Second Avenue
Suite 1600
Portland, OR 97204
Telephone: (503) 227-5631
Facsimile: (503) 278-4373
Email: sdp@chernofflaw.com
Email: Kevin@chernofflaw.com